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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,954	03/25/2004	Robert T. Tippmann	ACC0005-01	6357
832	7590	01/18/2006	EXAMINER	
BAKER & DANIELS LLP 111 E. WAYNE STREET SUITE 800 FORT WAYNE, IN 46802			COCKS, JOSIAH C	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/808,954	TIPPMANN, ROBERT T.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Josiah Cocks	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The drawings filed 11/03/2005 are accepted by the examiner.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,289,571 to Lewus ("Lewus '571").

Lewus '571 discloses in Figures 1 and 2 the invention as described in applicant's claims 1-14. In particular, Fig. 1 of Lewus '571 shows an oven (70) having an interior wall forming a cooking chamber (96), and a source of steam including a water reservoir with a quantity of water (92 in chamber 97). A heating means is provided to heat the water (92) to produce steam (see col. 3, lines 6-20). The lower portion of the oven includes a cover portion (74) with a tapered portion at each end (see Fig. 1) that restricts the flow of steam and would function to accelerate the steam passing to the cooking chamber (see col. 3, lines 20-23). This lower portion of the oven includes all the panel structure recited in applicant's claims. The method steps of claims 13 and 14 are considered met by the disclosure of Lewus '571.

In regard to claim 7, it appears that by reciting “means for accelerating” applicant intends to invoke 35 U.S.C. § 112 6<sup>th</sup> paragraph. This recitation satisfies the 3-prong analysis set forth in MPEP § 2181 and therefore has been regarded as invoking 35 U.S.C. § 112 6<sup>th</sup> paragraph. The elements that correspond to the “means for accelerating” are items (50, 55, and 86) described in applicant’s specification and drawings.

The examiner has found that the prior art elements (74) of Lewus ‘571; (A) performs the function specified in the claim, (B) is not excluded by any explicit definition provided in the specification for an equivalent, and (C) is an equivalent of the means plus function limitation. See MPEP § 2183. Accordingly, this prior art element is considered to meet the recitation in applicant’s claims.

4. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,574,776 to Hidle (“Hidle”).

Hidle discloses in Figures 1-21 an invention in the same field of endeavor as applicant’s invention and as described in applicant’s claim 15. In particular, Hidle shows an oven having an interior wall forming a cooking chamber (see at least Fig. 2), a source of steam (12), and a conduit having a tapered passage positioned intermediate the cooking chamber (see item 41 as shown in Fig. 13). Hidle further shows a panel and an exit panel wherein the exit panel cooperates with the panel to form the tapered passage (again see Fig. 13). The angle that the angle that exit panel (41) makes with panel (20) is shown as being greater than 90 degrees.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hidle as applied above and further in view of U.S. Patent No. 3,357,342 to Dreyfus ("Dreyfus").

In regard to the recitation that the angle formed by the exit panel and panel is substantially one hundred degrees, the examiner considers that this angle selection would be simply a matter of optimizing the prior through routine experimentation and is not patentably significant. See MPEP § 2144.04 (II). To support this assertion that examiner turns to Drefyus. Dreyfus shows a steam cooking device in the same field of endeavor as both applicant's invention and Hidle. In Dreyfus it is recognized that conduits may be tapered in a steam cooking device to provide a higher velocity steam that increased the ability of the device to cook food (see col. 2, lines 55-61). To have selected any specific angle of taper of the conduit (41) in Hidle is regarded as merely a matter of optimizing the steam velocity in desirably providing improved cooking and therefore not patentably significant.

***Response to Arguments***

7. Applicant's arguments filed 11/03/2005 have been fully considered but they are not persuasive. Applicant argues that applicant's invention is structurally and functionally

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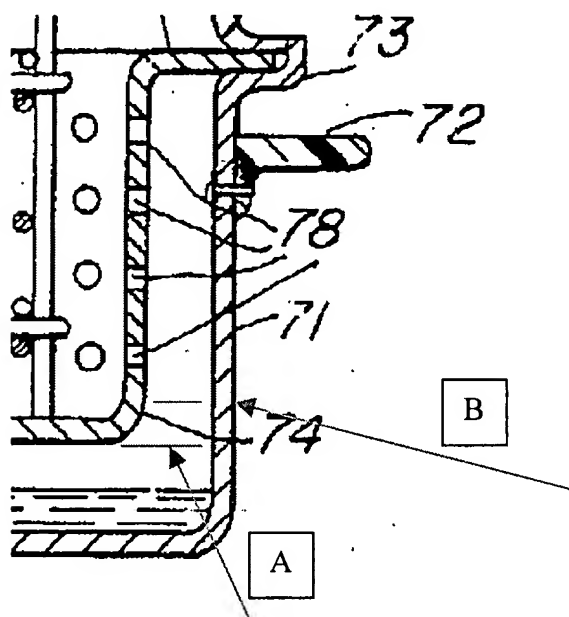
distinguished from Lewus '571 because of the presence of tapered passages that allow steam to be accelerated as it enters the cooking chamber. To this end applicant makes the following statement:

“Lewus '571 does not disclose a cooking chamber, a source of steam in fluid communication with the cooking chamber, a conduit having a tapered passage positioned intermediate the source of steam and the cooking chamber, whereby the quantity of steam traverses the tapered passage to enter the cooking chamber.” (response, p. 7)

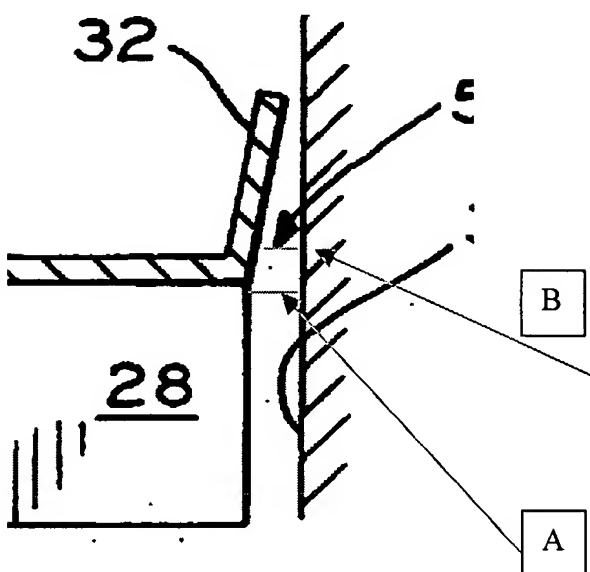
This statement is not well taken. Lewus '571 clearly and unambiguously discloses a cooking chamber (96) (note at least col. 2, lines 24-25 explicitly describing such chamber as a cooking chamber), a source of steam (water 92 in moisture chamber 97) in fluid communication with the cooking chamber, and conduits (conduits at end of pan 74 between base member 71, see Fig. 1) positioned intermediate the source of steam and the cooking chamber, whereby the quantity of steam traverses the tapered passage to enter the cooking chamber (see at least col. 3, lines 16-23). Applicant's statements to the contrary regarding these structures simply conflict with the plain disclosure of Lewus '571.

Regarding the recitation that the passage is tapered, the examiner has noted that the conduits shown in Fig. 1 of Lewus '571 formed between pan (74) and base member (71) are illustrated as tapered. The term “tapered” is defined by Webster's II New Riverside University dictionary (1984) as “a gradual decrease in width or thickness or an elongated object.” A segment Fig. 1 is reproduced below and compared with an exemplary embodiment of applicant's tapered passage shown in Fig. 3.

Segment of Fig. 1 of Lewus '571



Segment of Applicant's Fig. 3



The examiner has added the lightened arrows, reference characters A and B, and comparative lines to each drawing. The examiner considers that the portions indicated with the added lines and reference characters A and B illustrates that the width of passage formed between pan (74) and member (71) are properly considered to be gradually decreasing in the same manner shown by applicant's panel (32) and the hatched sidewall and is therefore properly considered tapered (note the comparative reference characters A and B and lightened lines).

Applicant's reliance on the decision in the *Hockerson-Halberstadt* case (see response, p. 8) is not considered relevant to the disclosure of the relative angles shown in the figures of Lewus '571. In the *Hockerson* case, it was found that in drawings not indicated to be drawn to scale, measurement of the drawings features are of little value. See MPEP § 2125 (citing *Hockerson-Halberstadt, Inc. v. Avia Group Int'l*, 22F.3d 951, 956, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000)). The conclusion of a tapered conduit based on the drawings would be present

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regardless of the scale of the drawings and would suggest such structure of the conduit to a person of ordinary skill in the art. Therefore, this argument is not considered persuasive.

Accordingly, applicant's claims are not considered to patentably distinguish over the prior art of record.

### *Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (571) 272-4874. The examiner can normally be reached on weekdays from 8:00 AM to 5:30 PM.

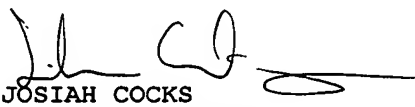


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg, can be reached at (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Any questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

jcc  
January 11, 2006

  
JOSIAH COCKS  
PRIMARY EXAMINER  
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